HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 14581 OF 1995

Between:

Prata Bahadur Pun

..... Petitioner

AND

Union of India,

Rep. By its Secretary for Defence,

New Delhi & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri S. Krishna

Counsel for respondent Nos.1 and 2 : Shri A. Rajashekar Reddy

Assistant Solicitor General

Dated: 12.12.2006

In this petition, the petitioner has prayed for quashing the punishment of dismissal imposed on him as a sequel to the summary court martial proceedings.

The petitioner joined Indian Army as Sepoy in 1978. In October, 1991, summary court martial proceedings were held against him on the charge of having given beatings to a superior officer. At the conclusion of the summary court martial proceedings, he was dismissed from service vide order dated 20.10.1991. He has challenged the order of dismissal on various grounds set out in the writ petition.

I have heard learned counsel for the parties and perused the record. In my opinion, it is not necessary to notice the detailed facts and determine the issues relating to legality of the order of punishment because I am convinced that this Court does not have jurisdiction to adjudicate on the legality of the impugned proceedings.

As per the petitioner's own showing, the misconduct in relation to which summary court martial proceedings were held against him had

been committed in the State of Arunachal Pradesh where his battalion of 4/5 Gorkha Rifles was posted; the proceedings of summary court martial were held in that State and the order of punishment was also passed there. It is, thus, clear that neither the cause of action nor a part thereof accrued to the petitioner within the territory of the State of Andhra Pradesh over which this Court exercises its jurisdiction. Therefore, by applying the ratio of the judgments of the Supreme Court in **State of Rajasthan v. Swaika Properties** and **ONGC v. Utpal Kumar Basu,** I hold that the writ petition cannot be entertained by this Court and the same is liable to be dismissed.

With the above observation, the writ petition is dismissed leaving the petitioner free to avail appropriate departmental and/or legal remedy.

G.S.SINGHVI, CJ

ksld

12.12.2006